

Staff Summary Report



Hearing Officer Hearing Date: July 1, 2008

Agenda Item Number: 2

SUBJECT: This is a public hearing for a request for reconsideration of Condition of Approval No. 6 by the **TEMPE EAST KINGDOM HALL OF JEHOVAH'S WITNESSES (PL070190/ZUP08069)** located at 4400 South Butte Avenue.

DOCUMENT NAME: 20080701dsdk01

PLANNED DEVELOPMENT (0406)

SUPPORTING DOCS: Yes

COMMENTS: Hold a public hearing for a request for elimination of Condition of Approval No. 6 by the **TEMPE EAST KINGDOM HALL OF JEHOVAH'S WITNESSES (PL070190/ZUP08069)** (Lauren Leuning, applicant; Tempe East Kingdom Hall of Jehovah's Witnesses, property owner) located at 4400 South Butte Avenue in the R1-6, Single Family Residential District which reads:

"Design a screen of acceptable material to increase the height of the existing perimeter block wall to a height eight (8) feet subject to Development Plan Review. Screen is to be finished on both sides. Notification of plan review is to be made to surrounding property owners prior to approval." **ADDED BY HEARING OFFICER AT JUNE 3, 2008 HEARING**

PREPARED BY: Diana Kaminski, Senior Planner (480-858-2391)

REVIEWED BY: Sherri Lesser, Senior Planner (480-350-8486)

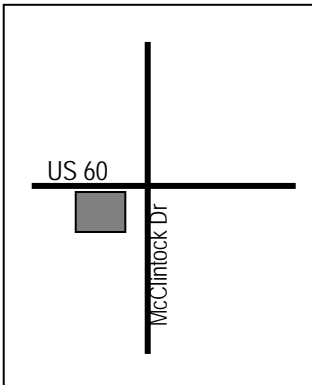
A handwritten signature in black ink, appearing to be 'Sh' followed by a flourish.

LEGAL REVIEW BY: N/A

FISCAL NOTE: N/A

RECOMMENDATION: Staff – Approval

ADDITIONAL INFO: The applicant is requesting elimination of condition number six from the previously approved use permit for parking exceeding 125% of the maximum allowed.



PAGES:

1. List of Attachments
2. Comments
3. Reasons for Approval; Conditions of Approval; History & Facts
4. Description; Zoning & Development Code Reference

ATTACHMENTS:

1. Location Map
2. Aerial Photo
- 3-4. Letter of Intent
5. Site plan
6. Landscape Plan
7. Public Input Received
- 8-9. Photographs

COMMENTS:

The applicant for Tempe East Kingdom Hall of Jehovah's Witnesses is requesting elimination of condition six (6), added by the Hearing Officer to the approval of the use permit for additional parking within their existing parking lot. In August of 2007, the applicant applied for a Development Plan Review process for a new single-family residence for the pastor of the church to reside on site. This request was administratively approved, including the building elevations, landscape plan and site plan. The proposed project is required to have 44 parking spaces and prior to the residence addition they had 77 existing spaces; during review of the building plans for permit, 10 additional parking spaces were identified on the site which created the need for a use permit to allow the number of on site parking spaces to exceed 125% of what is required by ordinance. Other modifications to the parking lot included increased retention, improved lighting, required landscape islands and a perimeter landscape buffer of trees. All of these modifications were made with the agreement of the applicant, for the purpose of providing more on-site parking, improving the site and removing a large dirt area formerly owned by ADOT.

On May 20, 2008, the Hearing Officer reviewed the request for a use permit to increase the number of parking from 44 to 87, in excess of the allowed 125% maximum. An adjacent resident attended this hearing and opposed the addition of parking spaces. The resident expressed concern about the church members parking buses and recreational vehicles adjacent to their fence. A complaint was made about the existing trees dropping leaves in the resident's pool. The resident requested a new 8' masonry wall be built where the existing 6' wall is located behind their property to provide visual and audible privacy. The Hearing Officer continued the case until June 3, 2008. At the June 3 hearing, the Hearing Officer took additional comments from the public, and added three conditions. The use permit to exceed 125% of the maximum allowable parking was approved subject to the following conditions:

1. The additional landscape material proposed for the parking area to be approved by Building Safety Division Plan Review.
2. The applicant shall provide a minimum of twelve percent (12%) of the surface area as landscaping, measuring around the perimeter of all parking spaces and maneuvering areas.
3. Lighting and landscape plans as well as site plan as approved through staff review of DPR07088 must be approved through Building Safety Division Plan Review.
4. **The eighteen (18) parking spaces along the southeast perimeter shall be limited to automobile (car) parking only (south tier of spaces near the common wall). ADDED BY HEARING OFFICER**
5. **High profile vehicles (i.e. buses, RV's) will be limited to the northernmost tier of parking spaces adjacent to the freeway wall. ADDED BY HEARING OFFICER**
6. **Design a screen of acceptable material to increase the height of the existing perimeter block wall to a height eight (8) feet subject to Development Plan Review. Screen is to be finished on both sides. Notification of plan review is to be made to surrounding property owners prior to approval. ADDED BY HEARING OFFICER**

The applicant agreed to these conditions at the hearing, but later determined that compliance with the condition number six (6) would be unduly burdensome to the progress of their project.

The applicant remains in agreement with conditions one through five, but is requesting relief from condition six (6). Pursuant to Section 6-605 and Section 6-312, an applicant may request modification or elimination of a condition of approval if the condition could not be implemented because it is beyond the reasonable control of the applicant and the modification will not require a significant modification of the original decision; or different conditions would better accomplish the purpose of the original condition.

JUSTIFICATION FOR RECONSIDERATION

Staff considers the following based on applicant information:

1. Condition six (6) requires the addition of screening material to an existing six-foot perimeter block wall, with no specificity to location, implying the entire perimeter.
2. The existing block wall is not owned by the church, the condition requires them to make improvements to adjacent property.

3. It is not known if the existing wall is designed to allow for additional weight or load; compliance with condition six (6) imposes a potential liability to the church if the existing wall does not meet structural requirements for an extension. The only other option is to build a second eight-foot screen on the church property, which will require engineered drawings and building permits per City of Tempe Building Code, imposing additional time and cost on the project.
4. The proposed site plan modification increases this landscape buffer to twenty-four feet behind the residences to the south, tapering down to twelve feet at the narrowest portion at the east end. Should the applicant choose not to go forward with the site improvements; the adjacent residences will continue to have vehicles parked five feet from the property line. The proposed site plan provides a significant increase in buffer between the church and residence.
6. An eight-foot screen would not mitigate the visual invasion from taller profile vehicles; conditions four and five, and the addition of a large landscape buffer, addresses the concern of busses and recreational vehicles parking adjacent to the residences and impacting their privacy.
7. The applicant is willing to move the proposed trees within the landscape buffer away from the property line to minimize leaf drop into the pool, and still provide the required landscape buffer that will mitigate light impacts from the parking lot.
8. Staff has told the applicant that wood will not be considered a durable product for this application. The applicant has researched green screens and determined that they would cost approximately \$60 per linear foot plus vegetation; this is more expensive, if not comparable to an eight foot masonry wall. If the condition were applicable only to the 270 linear feet along the south side, where the alley has been abandoned, the cost of screening would be an additional \$16,200 in materials and installation (excluding permits). The applicant is voluntarily making improvements to the property to relieve the parking burden of the adjacent neighborhood by providing more on-site parking. The applicant wanted to improve handicap accessible parking and make landscape improvements to the property. As a result of these site modifications to an existing parking lot that already exceeds current zoning allowances the applicant was required to make lighting and retention improvements to meet current standards. These requirements added to their project cost, but they were willing to take this burden for the addition of 10 parking spaces. This additional requirement puts increased financial hardship on the project.

PUBLIC INPUT

Staff has received input from a property owner to the west of the church, indicating they are in opposition to an eight-foot perimeter wall on their side of the site. Other property owners were not consulted regarding this condition affecting their yards.

CONCLUSION

The applicant has provided a letter outlining the hardships and delays caused by the addition of condition six (6). Upon review of this information, and the above eight points of consideration, staff has determined that the proposed site improvements with conditions one (1) through five (5) will enhance the neighborhood by reducing off-site parking and reducing dust and heat reflection; staff recommends elimination of condition six (6).

REASONS FOR APPROVAL:

1. The additional condition imposes further delays and hardships.
2. Condition six (6) requires the applicant to make improvements on properties not owned by the applicant.
3. The condition could not be implemented because it is beyond the reasonable control of the applicant and removal of condition six (6) will not significantly modify the original decision.
4. Circumstances have changed to the extent that the condition is no longer needed or warranted; conditions four (4) and five (5) require parking the high profile vehicles on the north side of the lot away from the adjacent residences, the parking spaces added to the north provide the location for these vehicles when needed.
5. A different solution would better accomplish the purpose of the original condition; the increased landscape buffer (from 5' to 24') with increased plant material (more trees than required by code) mitigates privacy issues along the south border.

SHOULD THE HEARING OFFICER ELECT TO TAKE AFFIRMATIVE ACTION ON THE REQUEST, THE FOLLOWING CONDITIONS OF APPROVAL SHOULD APPLY.

**CONDITIONS
OF APPROVAL:**

1. The additional landscape material proposed for the parking area to be approved by Building Safety Division Plan Review.
2. The applicant shall provide a minimum of twelve percent (12%) of the surface area as landscaping, measuring around the perimeter of all parking spaces and maneuvering areas.
3. Lighting and landscape plans as well as site plan as approved through staff review of DPR07088 must be approved through Building Safety Division Plan Review.
4. The eighteen (18) parking spaces along the southeast perimeter shall be limited to automobile (car) parking only (south tier of spaces near the common wall).
5. High profile vehicles (i.e. buses, RV's) will be limited to the northernmost tier of parking spaces adjacent to the freeway wall.

HISTORY & FACTS:

July 8, 1971	The City Council approved a subdivision for Tempe Gardens Unit Seven – A, including an alley immediately to the north of 4408 South Alder Drive and 4407 South Alder Drive. The property of the Tempe East Kingdom Hall of Jehovah's Witnesses was unsubdivided.
January 13, 1972	Final inspection of a single family home for 4408 South Alder Drive.
January 14, 1972	Final inspection of a single family home for 4407 South Alder Drive.
July 18, 1984	<u>DR-84.77</u> – The Tempe Design Review Board approved the building elevations, site plan, landscape plan and signage for Kingdom Hall of Jehovah's Witnesses with the following conditions: <ol style="list-style-type: none">1. All 3' and 6' masonry walls at street frontages and property lines be stuccoed and painted to match buildings on site.2. That details of parking lot lighting be reviewed by staff prior to issuance of building permits.3. That one additional 15 gal. olive and canary island pine be added to McClintock street frontage landscape area.
May 15, 1985	Alley Right-of-Way abandoned by the City.
July 10, 1985	Certificate of occupancy issued for Kingdom Hall of Jehovah's Witnesses.
September 17, 2007	<u>DPR07088</u> - The Development Services Planning Staff reviewed and approved a request for an 850 sf. Pastoral residence addition to the Tempe East Kingdom Hall campus including a Development Plan Review including site plan, building elevations, and landscape plan. Due to changes in the site plan, a use permit to exceed 125% of the maximum allowable parking was required.
May 20, 2008	<u>ZUP08069</u> – The Hearing Officer continued the request for a use permit to exceed 125% of the maximum

allowable parking.

June 3, 2008

ZUP08069 – The Hearing Officer approved the requested use permit to exceed 125% of the maximum allowable parking from 44 to 87 spaces with the addition of three conditions.

DESCRIPTION:

Owner – Tempe East Kingdom Hall of Jehovah's Witnesses
Applicant – Lauren Leuning
Existing Zoning – R1-6, Single Family Residential District
Lot Size – 62,471 sf. / 1.43 acres
Building Area (Church) – 4,221 sf.
Building Area (Pastoral Residence) – 1,189 sf.
Total Proposed Parking Area – 30,819 sf.
Proposed Parking Landscape Area – 4,826
Parking Landscape Percentage Required – 12 %
Parking Landscape Percentage Proposed – 15.6 %
Existing Parking – 77 spaces
Proposed Parking Provided – 87 spaces
Proposed Parking Required (Church) – 42 spaces
Proposed Parking Required (Pastoral Residence) – 2 spaces
Total Proposed Parking Required – 44 spaces

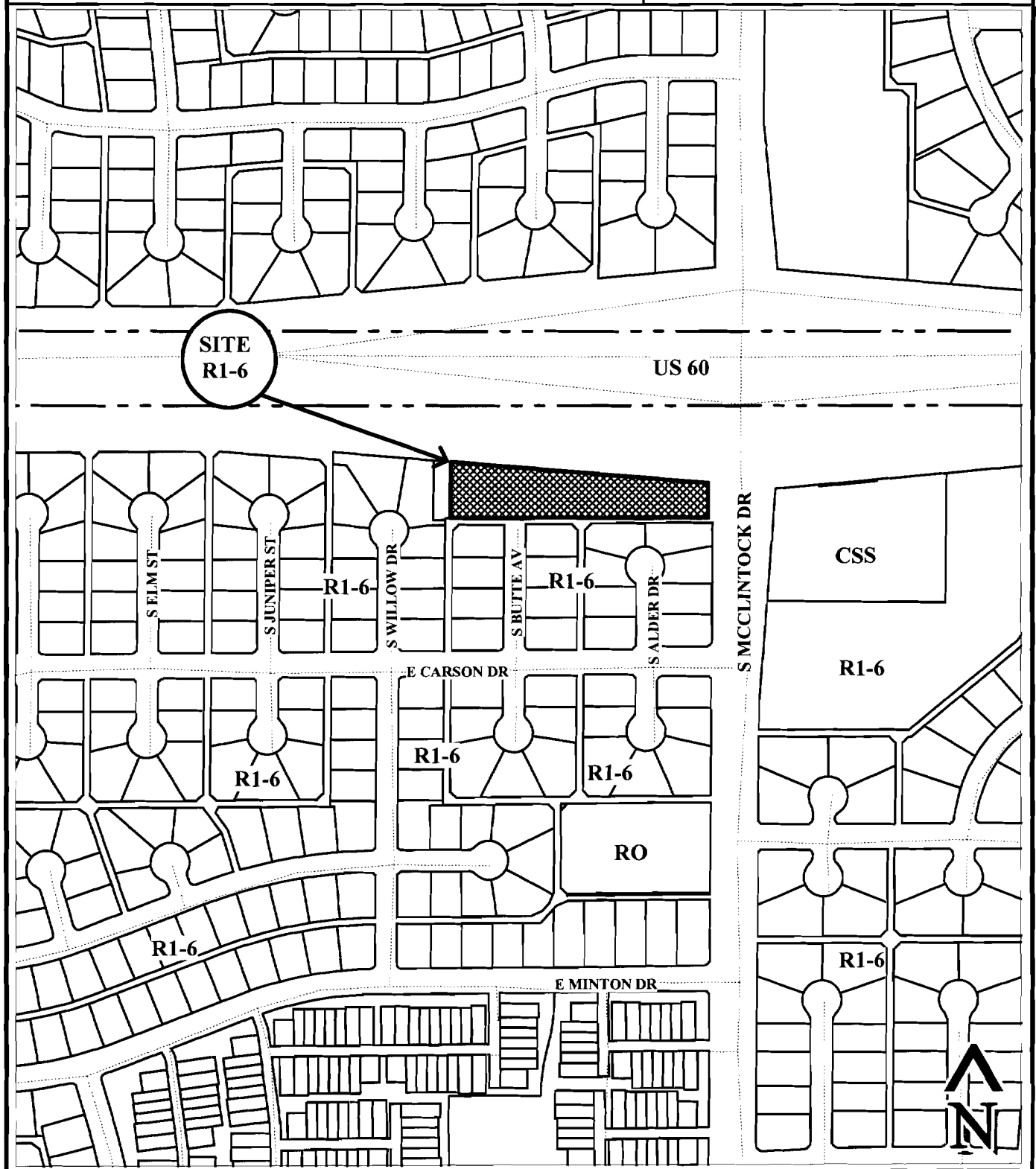
**ZONING AND
DEVELOPMENT**

CODE REFERENCE:

Part 4, Chapter 6, Section 4-603 – Parking Ratios
Part 4, Chapter 7, Section 4-704 – Parking Facility Landscape Standards
Part 6, Chapter 3, Section 6-308 – Use Permit

TEMPE EAST KINGDOM HALL OF JEHOVAH'S WITNESSES

PL070190



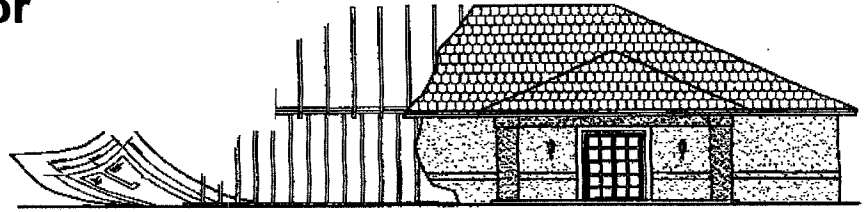
Location Map



Tempe East Kingdom Hall of JW (PL070190)

Permit Coordinator

Lauren Leuning
1230 E Myrtle Ave
Phoenix, AZ 85020



Cell: 602-432-3044

Home: 602-943-2562 Call first to Fax

E-mail laurenleuning@msn.co

June 10, 2008

Ms Lisa Collins
City of Tempe
31 E. Fifth Street
Tempe, Arizona 85281

Re: Tempe East Kingdom Hall of Jehovah's Witnesses
4400 S Butte Ave

Ms Collins:

I am writing with regards to the Tempe East Pastoral Residence Project; Project # PL070190. On Tuesday, June 3rd, Special use permit # ZUP08069 was granted with conditions. Use Conditions #6 for the use permit required that the fence adjacent to the residential neighborhood be raised by 2 feet, per request made by a single resident.

Condition # 6's requirement imposes hardships in the project, in view that the cost of implementing a wall or even an extension to raise the wall will add significant additional cost to the project. A suggestion was made as to the possibility of using a product called Green Screen. The cost of installing the product will run at least \$60.00 /per linear foot, plus planting. The efficacy of the screening is not guaranteed, in view of the viability of the vines that are planted on the trellis, and screening effect will not really occur until plants are mature. Other products like wood have been deemed not durable. Iron or metal work, unless designed and implemented well, will incur considerable cost, and or may in effect look ugly on the site. Additionally, the Condition requirement will require additional design reviews, which will incur further delays on the project.

In the final design of the project, efforts have been implemented to mitigate negative impact to the neighbors.

The design provides several improvements.

1. At the West end of there property a 24' plus or minus landscape buffer tapering to 12' plus or minus on the East property line has been provided between the parking area and the neighboring wall, where there was only 5' of landscape space before. In addition to the buffer space, new trees and shrubs have also been provided to screen the parking from the neighbors, as well as mitigate noise and light impact.
2. Existing trees which has served as a complaint to the offended neighbor will be removed, due to re-configuration of retention areas to the site. These offending trees are being replaced by non-deciduous trees that do not shed as much.

In view of the fact that the final design and layout of the project meets stringent City of Tempe codes and requirements, and considerable effort and expenses has been made to mitigate light, noise and visual impacts to the neighbors, with the provision of landscape buffer zones, use of plant materials, appropriate level lighting, we feel that the homeowner's request, and the condition for the use permit, causes additional and unfair burden upon us.

As a final issue, the Site plan for the project was approved by the City on Sept 17, 2007. At that time, no inference was made with regards to the need for a special use permit for the parking. That site plan had 90 parking spaces on the site. At around that same time, approval was granted for Grading and Drainage as well.

approvals. Several submittals had occurred, with redlines and corrections.

On Jan 23, 2008, a meeting was requested with the Development Services Review Staff to iron out the final requirements for the lighting and landscape. During that meeting, the Review staff came to the realization that in view of the additional parking spaces that were being provided, exceeded 125% of Code requirements, a Special Use Permit would have to be required. This resulted in the need for the application for the Special Use permit, which resulted in the Hearing for the Use permit Request, and thus the above mentioned Condition among others were then imposed on the project in order to obtain the Permit.

This oversight has served a hardship to the project, in view of the fact that additional time and monies were now required to be invested into the process, to submit and apply for this Use permit, which should have been brought out from the onset of Design Review, to be considered prior to Final Site plan approval. This does not include the addition cost of implementation, if the Conditions are imposed.

Thus, this letter is a request for Reconsideration of Hearing Decision for the project, in view of Hardship, Delay, and Mistake which has occurred incurring the additional expenses and delay to the project.

Please consider our request for Reconsideration on the Hearing, such request to be added to the next Hearing Officer Agenda.

Sincerely,

A handwritten signature in cursive script that reads "Lauren Leuning".

Lauren Leuning
Project Coordinator,
Tempe East Congregation of Jehovah's Witnesses.

ELEVATION=1186.01
CITY OF TEMPE BM#129
BRASS CAP IN HANDHOLE
MCCULLINTOCK & BASELINE

1. EXISTING 11.27' WATER SERVICE
2. EXISTING 11.27' WATER SERVICE
3. EXISTING MASONRY SCREEN WALL, EXTENDED TO SIDEWALK
4. SANITARY SEWER CLEANOUT
5. 2" THICK ASPHALT OVER 4" ABC FIBER COMPACTED SUBGRADE.
6. CONCRETE EXTERIOR CURB AT PARAPET EDGE
7. 8" MIN CONCRETE SIDEWALK UNLESS OTHERWISE NOTED
8. ACCESSIBLE PARKING SPACE
9. ACCESSIBLE RAMP 1:12 MAX. SLOPE
10. EXISTING SIDEWALK, STOPS AND TURNING LANE
11. PARKING OF LIGHTS
12. (SEE SHEET CIVIL FOR LUMINARY SCHEDULE)
13. FIRE DEPARTMENT WALK BOX
14. NEW FENCING FROM EXIST WALL TO NEW GATE
15. 6'-0" TALL HIGH MASONRY SCREEN WALL
16. EXISTING FIRE HYDRANT
17. STREET LIGHT TO BE INSTALLED BY CITY OF TEMPE

PROJECT TITLE: _____	TEMP. EAST NATIONAL RESIDENCE 4400 S. BUTTE TEMP. AIRPORT 45282
OWNER/APPLICANT: _____	TEMP. EAST CONGREGATION OF AMYNNESSES C/O JAMES MORIYUA 2604 EAST JARD ST PHOENIX, AZ 85001 (602) 810-1704
PERMIT COORDINATOR: _____	TEMP. EAST CONGREGATION OF AMYNNESSES 1230 E. MYRTLE AVE PHOENIX, AZ 85002 (602) 943-2562
ENGINEER: _____	HOWARD GOODMAN 30238 NORTH 20TH STREET PHOENIX, ARIZONA 85086 (602) 465-0094

PARKING AREA: _____ 31,179 SQ. FT.
PAVING MATERIAL: _____ CONCRETE/ASPHALT

REQUIRED PARKING /^o PASTORAL RESIDENCE:
1 SPACE FOR EVERY 100 SQ. FT. OF FLOOR AREA
4,221 TOTAL SQ. FT. = 44 SPACES

TOTAL REQUIRED _____ 44

PARKING PROVIDED /^o PASTORAL RESIDENCE:
PARKING SPACES _____ 4
HARDTOP SPACES _____ 4

TOTAL PROVIDED _____ 87

PARKING LOT LIGHT

[illegible]

TREE LIST

lyn tan, *R*LA

priveill, al 8302
tel 602.451.8920

[illegible]

ARIZONA



REGIONAL BUILDING COMMITTEE

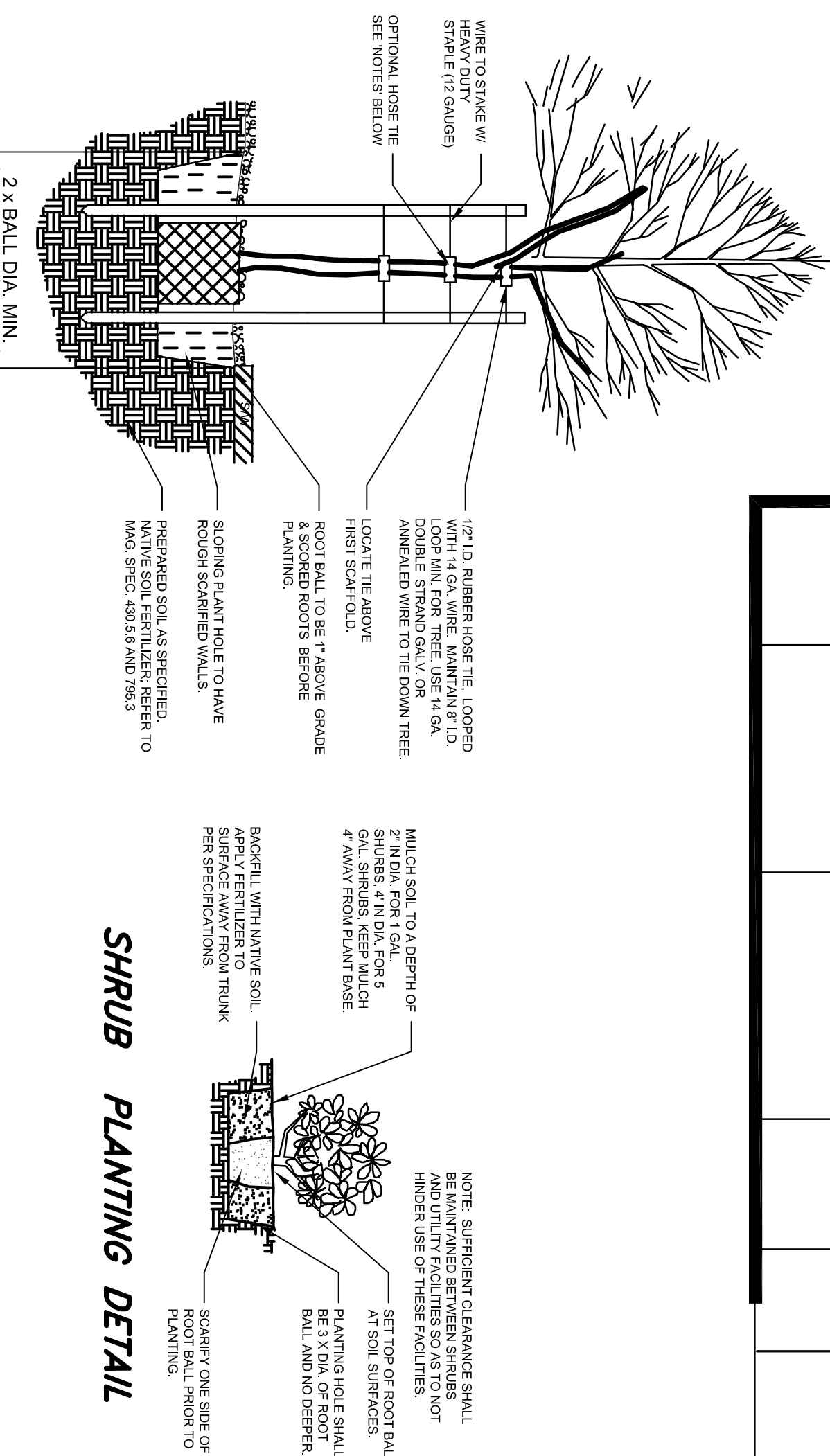
CARE OF: LAUREN LEUNING, PERMIT COORDINATOR
1230 E MYRTLE AVE, PHOENIX, AZ 85020
(602) 432-3044 (PHONE) - (602)395-9121 (FAX)

TEMPE EAST kingdom hall
PASTORAL RESIDENCE
4400 S. BUTTE
TEMPE, ARIZONA

revisions
5/16/08 - City Comments
Comments

12 of 5

TREE LIST



Kaminski, Diana

From: LAWRENCE BOYLES [Lboyleshhs@msn.com]
Sent: Monday, June 16, 2008 1:52 PM
To: Kaminski, Diana
Subject: Hearing Notice

To: Diana Kaminski
From: Larry Boyles
4405 S. Willow Drive
Tempe, Az 85282

Re: Tempe East Kingdom Hall of Jehovah's Witnesses
440 S. Butte Avenue

Dianna,

I am the owner of the property to the West of the church property. My wife and I will be opposed to any fencing that is to be constructed between the church and our property.

Thank you,
Larry Boyles

06/18/2008



TEMPE EAST KINGDOM HALL OF JEHOVAH'S WITNESSES

4400 SOUTH BUTTE AVENUE

PL070190

EXISTING PARKING LOT - VIEW TO EAST





View of neighbor's patio and fence adjacent to Landscape strip and parking area.



View of landscape strip with cars parked adjacent to fence.



View of landscape trees to be removed for new plan.



View of existing tree and parking area adjacent to Residence.